

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No.: 7:16-CV-00334-RJ

PERCY THELMORE TYNDALL,

Plaintiff,

v.

ANDREW SAUL
Commissioner of Social Security,

Defendant.

ORDER APPROVING 406(b) FEES

Plaintiff's counsel filed a motion for approval of attorney's fees under section 206(b) of the Social Security Act, 42 U.S.C. § 406(b), seeking an award of 25 percent of past due benefits payable to Plaintiff, less \$6,000 that Plaintiff's counsel has requested from the Commissioner for representation of the Plaintiff in the administrative proceedings before the agency under section 206(a) of the Social Security Act, 42 U.S.C. § 406(a). Attorney's fees under section 206(b) are paid from past-due benefits awarded to a successful claimant, 42 U.S.C. § 406(b). In this case, the Commissioner has owes a total of \$86,178 in past due benefits. Plaintiff's counsel's request represents an award of attorney fees in the amount of \$15,445 of total retroactive benefits from the plaintiff for work in Federal Court.

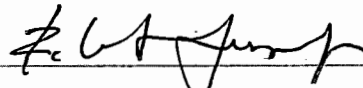
Plaintiff has previously been awarded attorney's fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, in the amount of \$4,500.

Under Gisbrecht v. Barnhart, 535 U.S. 789, 122 S. Ct. 1817 (2002), it is the duty of the Court to determine a reasonable fee.

The Court, in Culbertson v. Berryhill, 586 U.S. 304, 139 S. Ct. 517(2019), has endorsed the use of a contingency contract between the parties to allow up to a 25% fee of aggregate benefits for representation in Federal Court, providing that such a fee is reasonable.

It is ORDERED that Plaintiff's counsel be awarded fees under 42 U.S.C. § 406(b) in the amount of \$15,445, and to refund to Plaintiff the EAJA award of \$4,500 from this amount.

This the 9 day of October, 2019.

A handwritten signature in black ink, appearing to read "Robert B. Jones, Jr.", written over a horizontal line.

Robert B. Jones, Jr.
United States Magistrate Judge